

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

KORY T. O'BRIEN,

Plaintiff,

v.

OGLETREE, *et al.*,

Defendants.

Case No. 1:20-cv-01553-NONE-BAM (PC)

ORDER DENYING PLAINTIFF'S MOTION  
FOR SERVICE AS PREMATURE

(ECF No. 12)

Plaintiff Kory T. O'Brien ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

On March 15, 2021, the Court screened the first amended complaint and issued findings and recommendations regarding dismissal of certain claims and defendants. (ECF No. 11.) Plaintiff was permitted fourteen days to file any objections to the findings and recommendations. (*Id.* at 10–11.) Now that the deadline for filing objections has expired, the findings and recommendations are pending before the District Judge.

Currently before the Court is Plaintiff's motion for order of service of the first amended complaint on defendants, filed April 23, 2021. (ECF No. 12.) Plaintiff requests that the Court order service of the first amended complaint on defendants in light of the findings and recommendations. (*Id.*)

///

1 Plaintiff's request is premature. While the undersigned has recommended that this action  
2 proceed on the cognizable claims stated in Plaintiff's first amended complaint, those findings and  
3 recommendations have not yet been adopted by the District Judge. If the findings and  
4 recommendations are adopted, the Court will then order service on the appropriate defendants.  
5 Plaintiff does not need to request service.

6 Accordingly, Plaintiff's motion for service of the first amended complaint, (ECF No. 12),  
7 is HEREBY DENIED as premature.

8  
9 IT IS SO ORDERED.

10 Dated: April 26, 2021

11 /s/ Barbara A. McAuliffe  
12 UNITED STATES MAGISTRATE JUDGE  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28